



Office of the Attorney General
State of Connecticut

**TESTIMONY OF
ATTORNEY GENERAL GEORGE JEPSEN
BEFORE THE APPROPRIATIONS COMMITTEE
February 24, 2017**

Thank you for the opportunity to provide this testimony concerning the Administration's proposed budget for the Office of the Attorney General.

As you know, the Attorney General is the chief legal officer of the State of Connecticut, charged with representing and protecting the interests of the State and its citizens in all legal matters affecting the State. Unlike most agencies, we have just one program – legal services. My attorneys are in courtrooms around the state every day, protecting abused and neglected children, obtaining child support money owed single parents, protecting the environment, recovering money for consumers victimized by fraud, ensuring that charities live up to their responsibilities to operate in accordance with their mandates, and defending state agencies and their employees from a multitude of lawsuits seeking millions of dollars in damages.

During the 2015-16 fiscal year, my office handled more than 43,000 court cases, completed 166 appeals, with another 236 appeals pending, participated in 3,118 administrative proceedings, examined more than 6,869 legal documents and responded to thousands of consumer complaints.

We devote a substantial amount of our time and resources to recovering money for the state and its citizens, and through the defense of lawsuits, my office saves the state millions of dollars every year. The attorneys from my office engage in complex litigation each day in agencies and courtrooms throughout the state. These attorneys handle all aspects of civil litigation, including pretrial discovery, complex legal writing and argument, and in many instances full blown trials. The majority of these cases are ones that we have little or no discretion in choosing – meaning that we either receive an agency referral for enforcement or we respond to a lawsuit filed against the state.

By handling the vast majority of our cases in-house, as opposed to hiring outside counsel like many other state attorneys general typically do, we are able to generate substantial savings for the state. The education funding case *CCJEF v. Rell*, for instance, was the largest and most resource-intensive litigation ever undertaken by the Office of the Attorney General. Other states have retained outside counsel to represent them against similar claims. Connecticut did not. When it became apparent that the case would need to be tried, we increased our staffing to five full-time lawyers, plus paralegal support. The plaintiffs retained, on a pro bono basis, Debevoise & Plimpton, a top New York law firm. By the time of trial, that law firm had committed 14 lawyers plus support staff to the case. By their own calculations, Debevoise lawyers dedicated

more than 70,000 hours to the case plus \$1 million in hard costs (expert witness testimony, travel and lodging for the trial, etc.). Had the Connecticut Office of the Attorney General retained outside counsel, even on a more limited basis, the cost of representation could easily have exceeded \$20 million.

While fewer in number, the affirmative cases we choose to bring are no less important in both their legal significance and their outcomes for the state. In the last fiscal year, the Office of the Attorney General generated over \$201 million for the General Fund and another \$376 million for consumers, charities and the environment. See attached chart. During that same year, my Office returned more than \$18 for every dollar spent on our budget. Over the last three fiscal years, the office generated an average of \$18.05 for every dollar spent.

In the current fiscal year, my Office is on pace to generate more revenue for the General Fund than it did in the prior year. The budget for the current fiscal year projected that we would achieve \$40 million in one-time revenues in addition to the amounts we typically generate. We already have far exceeded that projection. Three separate settlements with RBS Securities, Inc., Moody's Corp. and Volkswagen have generated approximately \$169 million for the General Fund. The \$120 million RBS settlement is the largest stand-alone settlement in Connecticut history. The case was developed over the course of more than two years by two full-time Assistant Attorneys General, plus support staff. It was an extremely complex case, requiring significant institutional expertise and capability that most states of Connecticut's size simply do not have. Contingency fees for outside counsel typically run between 20%-33%, which would have reduced the State of Connecticut's recovery by tens of millions of dollars.

Many of our most significant lawsuits and associated settlements are coordinated with other state attorneys general in what are commonly known as "multi-states". Connecticut has become a recognized national leader in these matters. By devoting substantial resources and assuming a leadership role in multi-states, Connecticut has received larger recoveries than it otherwise would have received. Our leadership role in the Standard & Poors matter, for instance, resulted in a recovery \$14.5 million greater than it would have been had we not been one of the lead states. In Moody's Corp., we received \$21.8 million more than we otherwise would have received and in Volkswagen, we received an additional \$5 million for our leadership role. All of these amounts dwarf the amounts needed to hire the Assistant Attorneys General and staff that are required to play these important roles.

All of this is to demonstrate that I believe the Office of the Attorney General plays a critical part in the operation of our state government. However, without adequate resources – including sufficient staffing and operating expenses – such results simply could not be obtained. The state would be left more vulnerable to millions of dollars in money judgments and would further be unable to effectively enforce its civil laws in discretionary matters.

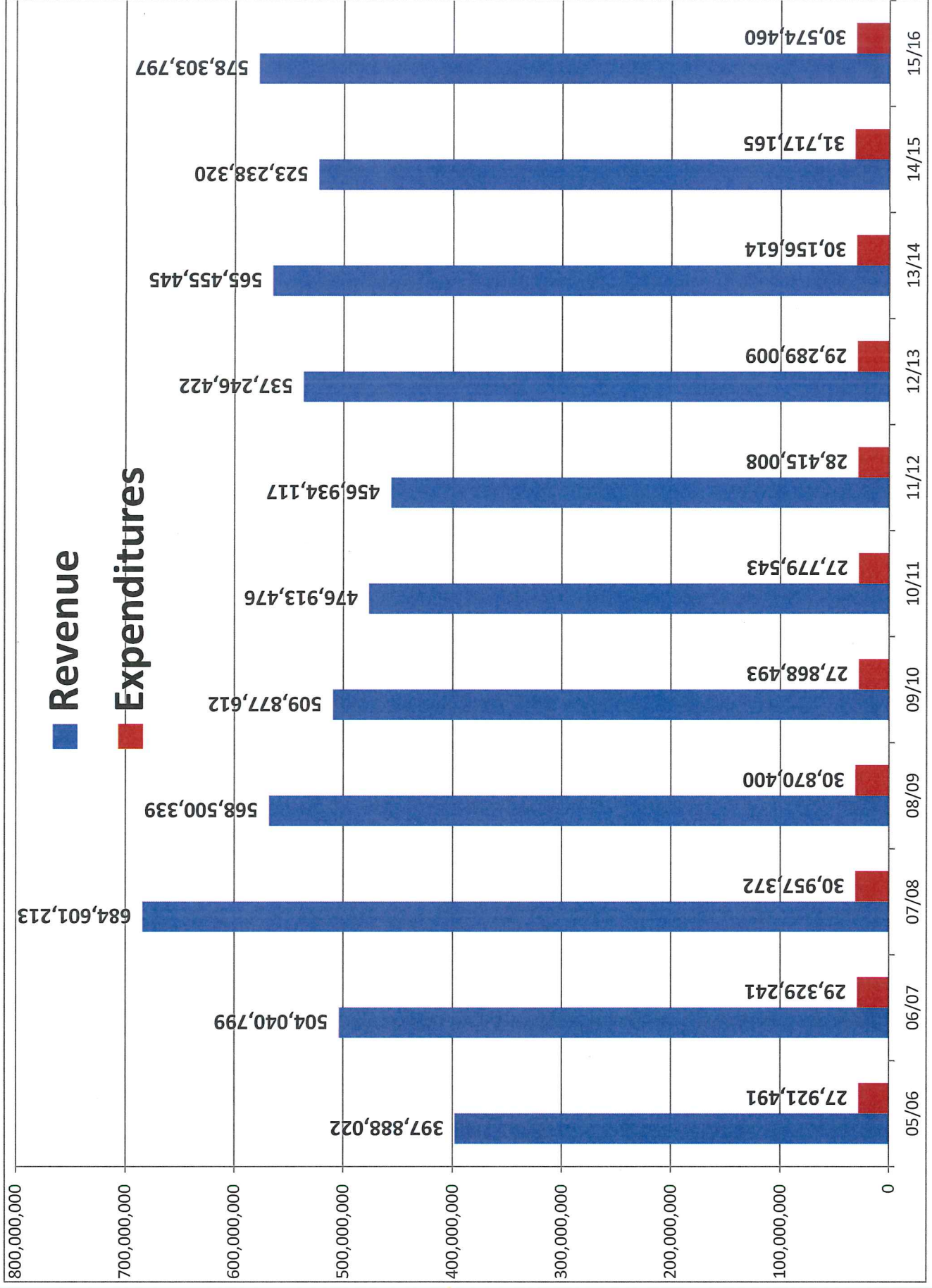
To be frank: The budget submitted to this legislature is painful, and my office shares in that pain. The Governor's budget reduces our current Personal Services line item by \$100,000. By recent standards, our office census is at a low point – 197 attorneys presently, compared to 212 lawyers in 2008. We have had numerous retirements over the past year, and several more impending, but we have been authorized to fill only a handful of these positions. It is this inability to rehire vacancies that has led some of our appropriated funds lapsing in recent fiscal years. This threatens our ability to continue to effectively and timely represent the interests of the State of Connecticut. We currently have attorney vacancies in some of our busiest departments, including in our Child Protection, Child Support Enforcement/Collections, Workers' Compensation/Labor, Public Safety, Environment, Antitrust and Government Program Fraud, Health and Education and Finance Departments.

We recognize the State's profound fiscal challenges. However, as the State's chief legal Office, we need adequate staffing levels to continue to provide legal services at the level the public demands and deserves. As noted, expenditures on our operations represent a wise and fruitful investment of public funds. We believe we would function most effectively with approximately 205 lawyers and approximately 10 additional support staff. Accordingly, we respectfully request an additional \$600,000 in Personal Services funding in each year of the biennium over what the Administration has proposed.

These additional funds will enable us to continue the efforts that have led to the kinds of savings and recoveries we have achieved in the past. A relatively small investment in our Office could easily mean the difference between handling a large, complex case like CCJEF in-house instead of spending millions of dollars to hire an outside law firm. It also will permit us to continue to achieve larger recoveries for the state through leadership roles in important, national multi-state lawsuits and investigations. As an example, it has been widely reported that we are presently the lead state in a 40-state multi-state investigation into widespread price-fixing in the generic drug industry. Our lawyers initiated this investigation more than two years ago, before any other state or federal agency. The investigation has since grown, remains ongoing, and is extremely resource-intensive. The additional funds we are requesting will help us continue our lead role in this important investigation, which may well yield financial dividends well in excess of the amounts we are requesting.

In addition to our Personal Services Budget, and in light of extraordinary expenses we expect to incur due to our planned office move, we believe we also will require \$100,000 in Other Expenses funding in each year above the administration's proposal.

In closing, I fully recognize the difficult choices that must be made in order to craft a biennial budget for the state, and I look forward to working with the committee to ensure that the Office of the Attorney General continues to provide efficient and effective legal representation to the State. I am happy to answer any questions from members of the committee.



Leadership Premiums

<u>Case</u>	<u>CT share</u>	<u>Leadership Premium Portion of CT Share</u>
NMFS (2012)	\$27 million	\$1 million
S&P (2014)	\$36 million	\$14.5 million
Chase (2015)	\$2.1 million	\$750,000
Moody's (2016)	\$31.5 million	\$21.8 million
Volkswagen (2016)*	\$16.3 million	\$5 million

*To date, we have only settled the unfair trade practices part of the Volkswagen matter. We are currently in negotiations on the environmental violations. Any settlement would provide Connecticut with a leadership premium.

The Value of In-House Representation

Tobacco: Under the terms of the 1998 Tobacco Master Settlement Agreement (MSA), tobacco companies could challenge the adequacy of certain enforcement actions taken by the states against tobacco companies that did not join the settlement. States that were found not to have diligently enforced their laws could lose up to their entire annual MSA payments, or over \$115 million per year for Connecticut. Under the MSA, the challenges were to be decided by a specially constituted arbitration panel of retired federal judges. Many states retained private counsel, often at a cost of millions of dollars, to represent them in these proceedings. The Connecticut AGO staffed the matter in-house and completed the entire arbitration proceeding, which extended from 2010 to 2013. Connecticut joined many other states in a favorable settlement after the arbitration hearing but prior to a final ruling by the arbitrators. That settlement prevented loss of Connecticut's share of MSA payments and also resulted in the earlier than expected payment of an additional \$77 million to Connecticut. It also established new rules to reduce the likelihood of future similar proceedings.

CT Coalition for Justice in Education Funding: CCJEF has been the largest and most resource-intensive litigation ever undertaken by the Office of the Attorney General. When efforts to resolve the matter without trial ended in 2012, we increased our staffing to five full time lawyers plus paralegal support. Plaintiffs were supported by a clinic of 12 Yale School students working on the case each semester for over 10 years, and they retained on a pro bono basis Debevoise and Plimpton, a top New York law firm, who committed 14 lawyers plus support staff. By their own calculation, Debevoise lawyers dedicated more than 70,000 hours to the case plus over \$1 million in hard costs (expert witness testimony, travel

and lodging for the trial, etc.). Had the Connecticut Office of the Attorney General retained outside counsel, even on a more limited basis, the cost of representation could easily have exceeded \$20 million. While the case is on appeal, the trial court's decision does not require new and additional spending on public education by the state.

Royal Bank of Scotland: At \$120 million, RBS is the largest stand-alone legal settlement in CT history. Our case against RBS, developed over the course of more than two years by two full time OAG lawyers plus support staff, was extremely complex, requiring significant institutional expertise and capability that most states of Connecticut's size would not reliably have. Contingency fees for outside counsel typically run from 20%-33% which, if we had needed to go outside, could have reduced the State of Connecticut's take by tens of millions of dollars.